

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3   KATHRYN T. CASTRO,

4                   Plaintiffs

5   v.

6   RONALDO SOSA-SANTOS and UBER  
7   TECHNOLOGIES, INC.,

8                   Defendants

Case No.: 2:20-cv-00591-APG-BNW

**Order to Show Cause Why This Action  
Should Not Be Remanded for Lack of  
Subject Matter Jurisdiction**

9           Defendant Uber Technologies, Inc. removed this action on the basis of diversity  
10 jurisdiction. ECF No. 1. Federal district courts have original jurisdiction over civil actions in  
11 diversity cases “where the matter in controversy exceeds the sum or value of \$75,000” and where  
12 the matter is between “citizens of different States.” 28 U.S.C. § 1332. Diversity jurisdiction  
13 requires complete diversity, meaning the plaintiff cannot be a citizen of the same state as any  
14 defendant. *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 553 (2005). As the party  
15 seeking to invoke this court’s jurisdiction, the plaintiff bears the burden of proving the court has  
16 jurisdiction. *Tosco Corp. v. Cmtys. for a Better Env’t*, 236 F.3d 495, 499 (9th Cir. 2001). Uber  
17 has not met this burden.

18           First, Uber has not shown complete diversity exists. Uber identifies itself as a “a foreign  
19 limited liability company domiciled in the State of Delaware.” ECF No. 1 at 3. If true, Uber  
20 must identify the citizenship of all of its members to establish complete diversity. *See Johnson v.*  
21 *Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (stating that “an LLC is  
22 a citizen of every state of which its owners/members are citizens”). If Uber is a corporation, then  
23

1 it must identify where it is incorporated and where it has its principal place of business. *See* 28  
2 U.S.C. § 1332(c)(1).

3       Uber also has not shown the amount in controversy is satisfied. If removal is sought  
4 based on diversity of citizenship, “the sum demanded in good faith in the initial pleading shall be  
5 deemed to be the amount in controversy.” 28 U.S.C. § 1446(c)(2). If the initial pleading seeks  
6 nonmonetary relief or “a money judgment, but the State practice either does not permit demand  
7 for a specific sum or permits recovery of damages in excess of the amount demanded,” then “the  
8 notice of removal may assert the amount in controversy,” but only “if the district court finds, by  
9 the preponderance of the evidence, that the amount in controversy exceeds the amount specified  
10 in section 1332(a).” 28 U.S.C. § 1446(c)(2).

11       Federal courts are courts of limited jurisdiction. . . . It is to be presumed that a  
12 cause lies outside this limited jurisdiction, and the burden of establishing the  
13 contrary rests upon the party asserting jurisdiction. . . . This burden is particularly  
14 stringent for removing defendants because the removal statute is strictly  
15 construed, and any doubt about the right of removal requires resolution in favor of  
16 remand.

17 *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 773–74 (9th Cir. 2017) (internal  
18 quotations, alterations, and citations omitted). “Federal jurisdiction must be rejected if there is  
19 any doubt as to the right of removal in the first instance.” *Gaus v. Miles*, 980 F.2d 564, 566 (9th  
20 Cir. 1992) (per curiam). Where “it is unclear what amount of damages the plaintiff has sought,”  
21 as with claims governed by Nevada Rule of Civil Procedure 8(a), “then the defendant bears the  
22 burden of actually proving the facts to support jurisdiction, including the jurisdictional amount.”  
23 *Id.*

24       To determine the amount in controversy on removal a court may consider the facts  
25 alleged in the complaint and in the notice of removal, and may “require the parties to submit

1 summary-judgment-type evidence relevant to the amount in controversy at the time of  
2 removal.” *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997) (quoting  
3 *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335-36 (5th Cir. 1995)). A court also has  
4 discretion to consider a plaintiff’s formal judicial admission that the amount in controversy is  
5 met. *Id.* at 376.


6 In *Gaus*, the Ninth Circuit vacated the district court’s grant of summary judgment  
7 because the federal court lacked subject matter jurisdiction; the Ninth Circuit remanded with  
8 instructions to remand the case to the state court. 980 F.2d at 565, 567. The plaintiff had filed  
9 suit in Nevada state court, seeking damages “in excess of \$10,000.” Upon removal, the  
10 removing defendant alleged that “the matter in current controversy . . . exceeds the sum of  
11 \$50,000.” *Id.* at 565. The Ninth Circuit found that the removing defendant “offered no facts  
12 whatsoever to support the court’s exercise of jurisdiction,” and held that “[t]his allegation,  
13 although attempting to recite some ‘magical incantation,’ neither overcomes the ‘strong  
14 presumption’ against removal jurisdiction, nor satisfies [the removing defendant]’s burden of  
15 setting forth, in the removal petition itself, the underlying facts supporting its assertion that the  
16 amount in controversy exceeds \$50,000.” *Id.* at 567.

17 Here, as in *Gaus*, Uber offers no facts to support the court’s exercise of jurisdiction, and  
18 the plaintiff’s allegations in the complaint provide none. Accordingly, I cannot exercise subject  
19 matter jurisdiction in this action. However, before dismissing this action for lack of subject  
20 matter jurisdiction and remanding to the state court, I will permit Uber to present any evidence  
21 relevant to the amount in controversy at the time of removal.

22 IT IS THEREFORE ORDERED that defendant Uber Technologies, Inc. shall show  
23 cause, in writing, as to why this action should not be remanded to the state court for lack of

1 subject matter jurisdiction. Failure to show cause by April 17, 2020 will result in remand to the  
2 state court.

3 DATED this 30th day of March, 2020.

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5 ANDREW P. GORDON  
6 UNITED STATES DISTRICT JUDGE  
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